

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

MARK TITSWORTH,

Plaintiff,

vs.

NANCY A. BERRYHILL, Acting
Commissioner of Social Security,

Defendant.

8:16CV387

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion for attorney fees, [Filing No. 22](#). Plaintiff is the prevailing party in this case, as this Court previously awarded him benefits and remanded the case to the Commissioner for a determination of benefits. [Filing No. 21](#). Pursuant to the Equal Access to Justice Act (EAJA), [28 U.S.C. § 2412](#), the plaintiff requests attorney fees in the amount of \$8,565.85. [Filing No. 24](#), Plaintiff's Brief, p. 1.

Plaintiff moves for \$8,565.85 dollars in attorney fees. The EAJA provides for attorney fees in the amount of \$125.00 per hour for actions filed after March 29, 1996. Sean D. Cuddigan, attorney for the plaintiff, specializes in social security cases. He generally believes his time is worth \$250.00 per hour. He has been practicing law since 2008. His associate attorney at the time, Phillip Martin, worked on the case also. In general, states plaintiff, "the percentage increase in the Cost of Living is calculated by dividing the cost of living figure in August 2016 (240.849) by the cost of living in March 1996 (155.7). The result (1.54687861) is multiplied by \$125.00 per hour to compute the

current hourly maximum of \$193.36. Counsel's request for \$193.36 per hour is within the EAJA cap.” [Filing No. 25](#), Declaration of Sean D. Cuddigan, at 2.

The Commissioner does not dispute that plaintiff is entitled to fees in this case. The Commissioner requests that the payment may be made directly to the plaintiff and that such payment may be mailed to plaintiff’s counsel, subject to any pre-existing governmental off-sets. [Astrue v. Ratliff, 560 U.S. 586 \(2010\)](#).

The Court has carefully reviewed the motion and finds it should be granted. The plaintiff is the prevailing party and is entitled to receive attorney fees. [Shalala v. Schaefer, 509 U.S. 292, 302-303 \(1993\)](#). The hourly rates are reasonable in this community. Counsel is experienced and achieved positive results for his client. The hours expended are reasonable. Plaintiff is the prevailing party and has a net worth under \$2,000,000. [28 U.S.C. § 2412 \(d\)\(2\)\(B\)](#). The Court further finds that the position of the government was not substantially justified and there are no special circumstances that would make this award an unjust one. [28 U.S.C. § 2412 \(d\)\(1\)\(A\)](#).

THEREFORE, IT IS ORDERED THAT:

1. Plaintiff’s motion for attorney fees, [Filing No. 22](#), is granted.
2. Fees to be paid by the Social Security Administration are awarded in the amount of \$8,565.85, and are payable to the plaintiff as the litigant and may be subject to offset to satisfy any pre-existing debt owed to the United States.

Dated this 11th day of January, 2018.

BY THE COURT:

s/ Joseph F. Bataillon
Senior United States District Judge